



Memorandum

TO: HONORABLE MAYOR AND
CITY COUNCIL

FROM: Jacky Morales-Ferrand
Jim Shannon

SUBJECT: SEE BELOW

DATE: February 3, 2022

Approved

Date

2/3/2022

SUBJECT: PROPOSED CHANGES TO THE ALLOCATION AND CATEGORY NAMES OF MEASURE E REAL PROPERTY TRANSFER TAXES

RECOMMENDATION

- (a) Hold the first of two public hearings regarding proposed changes to the spending allocation of real property transfer tax revenues as described under Section 22 of City Council Policy 1-18.
- (b) Consider changes to the spending allocation of real property transfer tax revenue set forth under Section 22 of City Council Policy 1-18 to modify the category names and allocation amounts to:
 - (1) 40% for creation of new affordable housing for extremely low-income households;
 - (2) 30% for creation of new affordable housing for low-income households;
 - (3) 5% for creation of new for-sale and rental affordable housing for Moderate-Income households; and
 - (4) 25% for homeless support programs including prevention and rental assistance, shelter construction and operations.

OUTCOME

Holding the first of two public hearings will initiate the process for approving changes to the spending priorities for Measure E Property Tax Revenue consistent with Section 22 of Council Policy 1-18. A second public hearing must be held followed by a two-thirds vote of the City Council to make changes to the spending priorities. If these changes are approved by the City Council, these revised priorities will be incorporated into the Measure E spending plan for both the current and future fiscal years.

BACKGROUND

The City of San José has a substantial need for affordable housing. As discussed below, upon approval of Measure E, the City Council updated City Council Policy 1-18 to add Section 22 (**Attachment A**) clarifying the intended use of general fund revenues raised from Measure E. Measure E is a general tax and the revenues derived from the tax are unrestricted, which means the City can use Measure E revenues for any governmental purpose. While these revenues are deposited in the General Fund and can be used for any governmental purpose, the City Council intended that the revenues be allocated towards addressing the affordable housing and homelessness crisis. The City's most urgent housing issues include, but are not limited to, housing for the individuals and families experiencing homelessness and developing or acquiring new affordable housing.

On December 3, 2019, the City Council voted to place a new real property transfer tax on the March 3, 2020 ballot. The proposed real property transfer tax (Measure E revenues) funds general City of San José services and is set at the following rates:

- Transfers valued under \$2 million: exempt (adjusted for inflation)
- Transfers from \$2 million to \$5 million: 0.75%
- Transfers from \$5,000,000.01 to \$10 million: 1.0%
- Transfers over \$10 million: 1.5%.

The Santa Clara County Registrar of Voters gave this ballot measure the designation of Measure E.

In June 2020, the City Council amended City Council Policy 1-18 to include a new Section 22 which specifies spending priorities for Measure E and a process for making changes to the priorities. The policy states "*the City Council intends for the revenues to be allocated towards addressing the homelessness crisis and the City's most urgent issues including, but not limited to, homeless prevention and developing new affordable housing.*"

The policy continues to state up to 5% of the Measure E revenues may be allocated for the administration of funding related to increased workload resulting from more robust homeless prevention efforts and the creation of more affordable housing, including, but not limited to, financial, legal, or administrative and policy programmatic support.

After 5% of the funds are set aside for administration, the remaining funds are distributed on a proportional basis in the funding categories identified in **Table 1**.

Table 1: Current Measure E Spending Priorities per City Council Policy 1-18, Section 22

Measure E Spending Priorities (After the subtraction of the 5% for Administration Purposes)	
Spending Priority	Percent of Transfer Tax
Permanent Supportive and Affordable rental housing for Extremely Low-Income Households	45%
Affordable rental housing for Low-Income Households	35%
For-sale and Moderate-Income Rental Housing Households	10%
Homelessness Prevention and Rental Assistance	10%

Additionally, City Council Policy 1-18 outlines a process for making changes to the funding allocations. Modifying the percentage allocations during the year requires:

- 60-day public notice in advance of the effective date of the proposed allocation change
- At least two public hearings prior to City Council action
- Two-thirds vote of the City Council

As described in the policy, “Due to the volatile nature of real property transfer tax such as [Measure E], the City will conservatively estimate revenue from [Measure E] as part of the Proposed Budget process. During the course of the fiscal year, revisions to the [Measure E] estimate may be recommended to the City Council to align with the pace of actual collections.”

For Fiscal Year 2020-2021, Measure E revenues totaled generated was \$50.5 million, exceeding the initial 2020-2021 Adopted Budget estimate of \$40.0 million. The 2021-2022 Adopted Budget also estimated \$40.0 million in Measure E revenue. Based on revenues received through December 2021 and revised projections for the remainder of the fiscal year, actions included in the 2021-2022 Mid-Year Budget Review scheduled for City Council consideration and approval at their meeting on February 8, 2022 recommends increasing the budgeted estimate for 2021-2022 by \$50.0 million, for a new total estimate of \$90.0 million. The significant 2021-2022 collection level is due to several factors, including the timing of when the payment from Santa Clara County was processed for June collections, resulting in additional 2021-2022 revenues of \$9.7 million; and ten high-value commercial property transfers occurring between July and December 2021 totaling \$32.9 million. Though this revenue stream remains volatile and is disproportionately impacted by large commercial real estate transactions – for example, a property known as “HQ @ First” was sold for \$535 million in August 2021 and generated over \$8 million in Measure E real property transfer taxes – the Administration preliminarily estimates future year ongoing revenues at \$65 million.

Any revenues collected in excess of the budgeted estimate are proportionately allocated to each spending category specified in City Council Policy 1-18 as part of the City Manager’s Annual Report that is approved by the City Council each October.

Table 2: Measure E Revenue Actuals and Projections

Measure E Revenue Actuals and Projections			
Fiscal Year	Initial Estimate/ Forecast	Actual/Revised Forecast	Surplus/ (Deficit)
2020 – 2021	\$40,000,000	\$50,530,828	\$10,530,828
2021 – 2022	\$40,000,000	\$90,000,000	\$50,000,000
2022 – 2023	\$65,000,000	TBD	TBD

ANALYSIS

The City of San José continues to face both a homeless and an affordable housing crisis. Given the inevitable total consumption of available Measure A funding and the unexpected surplus of Measure E revenue in the current fiscal year and stronger revenues preliminarily forecasted in the future, staff is exploring opportunities to resolve multiple faucets of our affordable housing and homeless crisis through Measure E. This exploration also takes into consideration the approval of a memorandum by the Rules and Open Government Committee on September 29, 2021 directing staff to create 1,000 emergency housing community units and 300 HomeKey motel units under construction or completed by December 2022. In order to meet these aggressive goals, staff was directed to identify eligible funding for these efforts.

Depletion of Measure A Funding

In 2016 the County of Santa Clara passed Measure A, which created a \$950 million affordable housing bond with a goal to construct 4,800 units of affordable housing and assist 235 families in first time homebuyer programs. The Santa Clara County Board of Supervisors will be taking action to fund an additional \$75 million in Measure A funds on February 8, 2022. Approximately \$773 million or 81% of the \$950 million Measure A Housing Bond would be committed with approval of the six developments this month. Setting aside \$25 million for homeownership programs and \$67 million for mixed income rental and homeownership housing, there is only \$85 million left in Measure A funding to invest in the development of affordable housing. In the future, as this valuable resource to the production of affordable housing in San José is expended, local funding sources will be essential in meeting the City's goals to produce permanent affordable housing to end homelessness in addition to addressing the affordable housing needs of our residents.

Need for Funding the Production of Affordable Housing

On December 20, 2021, the Housing Department released a Notice of Funding Availability (NOFA) for \$150 million for the development of new affordable housing throughout the City of San José. Nearly half of these funds were made available through Measure E. These funds may assist in the creation of approximately 1,200 apartments that will guarantee affordable rents for the next 55 years providing housing stability to at-risk residents in San José. Developments that apply, and are selected, in the current NOFA round are anticipated to begin construction in three

years and open their doors for residents in approximately five years. Funds generated through Measure E are essential to the continued development of an ongoing pipeline of future affordable housing in San José.

Based on information gathered from the Planning Division, nearly 30 new affordable housing developments have submitted preliminary applications for more than 3,000 new affordable apartments. At the \$125,000 per unit subsidy provided by San José, this would require \$375 million in funding from the City in gap financing. As funding is made available, many of these preliminary applications are expected to come forward and submit applications to the City for funding. San José has a robust affordable housing pipeline. To continue this momentum, it is critical that developers know that there is an ongoing source of funding for the development of new affordable housing.

Over the past few years, the Housing Department has limited its investment to \$125,000 per unit primarily due to the availability of Measure A funds that leveraged City funds to close the financing gap for affordable developments. As Measure A funds are depleted, the City will need to reconsider the level of subsidy necessary for funding future affordable units. The per unit subsidy amount is expected to rise in the coming years. Measure E funds can provide the additional funding needed to fill these gaps.

Ongoing Need for Interim Housing Operations

In January 2020, the City opened its first Bridge Housing Community (BHC). The BHC program provides interim housing for formerly unhoused individuals. The City has two BHC communities that each have 40 cabins designed for individual occupancy. Each community includes community support facilities including shared bathrooms, showers, laundry, kitchen and community space for the residents. The sites have shared community space (community garden space and a dog run), bathrooms, showers and cooking facilities. The community buildings are premanufactured buildings. Residents who move into the site are provided case management to support their transition into a permanent home. The program gives participants an opportunity to stabilize their lives and work toward self-sufficiency.

During the coronavirus pandemic the City built Emergency Interim Housing (EIH) communities, which use modular premanufactured housing instead of individual cabins. EIH provide the same services and support as the BHC communities. For the duration of the pandemic, both BHC and EIH communities are predominately being used to house medically vulnerable unhoused residents who are at risk of severe illness or death if they contract COVID-19. When the pandemic subsides, EIH and BHC communities will serve a variety of individuals with a wide range of abilities and disabilities. Referrals will come from multiple points, including those from street outreach teams referring individuals from nearby encampments, SOAR sites, abatements and referrals from the City's homeless employment programs.

The City also applied and received funding for the purchase of the SureStay Motel through Project HomeKey. Project HomeKey is an opportunity for state, regional, and local entities to develop a broad range of housing types (e.g., hotels, hostels, single-family homes, apartment buildings, adult residential facilities, manufactured housing), and convert commercial properties and buildings to permanent or interim housing. The City recently submitted applications to the

state Department of Housing Community and Development for two additional HomeKey sites at the Arena Hotel and the Branham & Monterey location. Additionally, staff anticipates submitting an application for the Pacific Motor Inn in the current HomeKey funding round. The State does not cover the entire cost of operating the HomeKey sites and the City must provide additional operating support to make the sites feasible. The HomeKey sites will no longer need subsidies when the sites are redeveloped, likely within the next five years.

Currently the BHC and EIH communities house 473 at-risk individuals and families. At full capacity the five Project HomeKey sites can provide an additional 480 shelter beds.

Table 3: Interim Housing Operating Costs

Annual Interim Housing Operating Costs Per Bed				
Interim Housing Site	Number of Beds	Annual Operating Costs	Annual Operating Cost per Bed	Anticipated End
Mabury Road BHC	40	\$1,924,099	\$48,102	2023
Felipe Ave BHC	40	\$1,924,099	\$48,102	2025*
Monterey/Bernal EIH	78	\$3,331,391	\$42,710	2025*
Rue Ferrari EIH	118	\$3,910,763	\$33,142	2025*
Evans Lane EIH	121	\$2,881,039	\$23,810	2025*
Guadalupe EIH	76	\$3,200,000	\$42,105	2025*
SureStay Hotel **	73	\$2,000,000	\$27,397	2027
Arena Hotel***	89	\$2,185,555	\$24,557	2027
Plaza Hotel	42	\$1,050,000	\$25,000	-
Branham & Monterey Site***	204	\$5,463,062	\$26,780	-
Pacific Motor Inn****	72	\$3,125,411	\$43,408	2025
Total	953	\$30,995,419	\$385,113	

* Current legislation allows for use through 2025, Department staff intends on applying for extensions

** The SureStay hotel is converting to permanent housing but will continue to require ongoing operating support

***These sites are not yet fully operational

****The Pacific Motor Inn has not yet submitted a HomeKey Program grant application

Services Provided at Interim Housing Sites - Program participants at the BHC and EIH communities have access to numerous resources to help them succeed in their efforts to find permanent housing and remain stably housed. These resources include job placement assistance, mental health counseling, life skills training, and assistance in applying for permanent housing. Since BHC and EIH sites receive referrals from a variety of sources, the staffing model is designed to meet the needs of a wide range of participants – including older adults, those with health conditions, chronically homeless and able adults and families who need temporary assistance. The current staffing model is designed to support participants with two primary goals:

- Participants receive support services that enable them to exit the program to stable housing.
- Support participants who have wide range of abilities and disabilities.

Limitation of HomeKey Program Funding - The HomeKey program provides grant funds from the state to provide shelter for the homeless population. The majority of the state’s funding is for the acquisition and rehabilitation hotel/motel buildings. A lesser amount of funding is allocated for reoccurring project operating expenses. On-going operating expenses include utilities, maintenance, management fees, taxes, licenses, and supportive services. As a result of the State’s funding allocation to acquire, rehabilitate, or master lease housing opportunities versus paying for on-going operating expenses, the burden lands directly on public entities to identify other sources of funds to ensure project feasibility for the duration of the operational period.

Cumulative Annual Operating Costs - The estimated annual expense to operate the City’s two Bridge Housing Communities, three Emergency Interim Housing communities, and anticipated four Project HomeKey sites – once all sites are fully operational – exceeds \$30 million annually. A multi-year projection of these costs can be found in the *Cost Summary/Implications* section. While some of the interim housing solutions are designed to remain in place for multiple years, others will cease as the redevelopment of the sites move forward. The City plans to coordinate with identified developers to move forward with the redevelopment of the SureStay, Arena Hotel and the Pacific Motor Inn. While the Housing Department currently leverages 13 State and local funding sources to operate these communities, the majority of these funding sources are set to expire in Fiscal Year 2024-2025. If approved, staff will use Measure E dollars to supplement the gap in conjunction with Federal, State, and local funding to ensure the continued viable operation of these essential communities.

Mounting Costs with Additional Interim Housing – On September 29, 2021, the Rules and Open Government Committee approved a memorandum from the Mayor and Councilmembers Peralez, Jimenez, Foley and Mahan seeking to have 1,000 pandemic-era emergency interim housing community (EIHC) units and 300 HomeKey motel units under construction or completed by December 2022. While a variety of work is ongoing related to this goal, it is important to consider the potential one-time and ongoing cost considerations associated with such a significant investment. Should the City Council approve additional sites, funding will need to be identified to pay for the design, construction, and operating costs necessary to house residents at these new facilities. The addition of new interim housing sites will increase the ongoing obligation of the City to provide funds for operating costs. Additional discussion on long-term financial impacts on interim housing sites is included in the *Cost Summary/Implications* section below.

Table 4: Anticipated Costs for Additional Interim Housing Sites

Interim Housing Site	Construction	Annual Operating Costs
Individual Site Costs	\$8,000,000	\$3,900,000
Cumulative Cost for Six Sites	\$48,000,000	\$23,400,000
<i>Existing Operations Plus New Costs</i>		\$54,395,419

Operating Cost Study

The Rules and Open Government Committee approval of the September 29, 2021 memorandum also included direction to study the costs of interim housing operations and provide options to reduce operating costs. The Department is working with the San Francisco Foundation to engage a consultant. The consultant study will identify proven best practices (local or national) for interim housing, specifically:

- Models of services and operations that reduce operations and service costs;
- Service and operational models that engage residents in the governance, management and operations of their own community; and
- Service and support models that move participants to permanent housing.

The San Francisco Foundation is in the process of identifying a consultant to conduct a study and the findings are estimated to be released this fall.

Available Funding Sources for Homeless Programs

The Housing Department utilizes thirteen funding sources for the operation of these sites, but only two are ongoing. For example, American Recovery Act funds have been used for both construction and operations of interim housing sites and the acquisition of the SureStay hotel. All other affordable housing funding sources are limited in the use of funds on homeless shelter construction and operations. A list of ongoing sources of funding and allowable uses is included as **Attachment B**. An example of an allowable source for interim housing is the Community Development Block Grant (CDBG) Program. The challenge with this source is that there are limited funds which have already been committed to community serving programs. The use of CDBG funds would require reallocating funds away from the community services to fund the operations of interim housing.

Proposed Solution to Support Interim Housing

After carefully weighing the needs and resources available, staff is recommending a change to the percentage allocation between each Measure E category and revising the definition of Homeless Prevention and Rental Assistance to allow for funding the operations of interim housing in addition to the current uses. Table 5 below demonstrates the proposed change in allocation and the resulting amounts of funding in each category. This table includes the action in the 2021-2022 Mid-Year Budget Review to increase the 2021-2022 revenue estimate by \$50 million (from \$40 million to \$90 million) and the preliminary forecast of \$65 million for 2022-2023.

Table 5: Revised Allocations for Measure E Funds – Assuming \$90 Million

	Current Allocation		Proposed Allocations			
	FY 21-22		FY 21-22		FY 22-23	
Spending Priority	%	Amount (\$40M)	%	Amount (\$90M)*	%	Amount (\$65M)
Permanent Supportive and Affordable rental housing for Extremely Low-Income Households	45%	\$17,100,000	40%	\$35,200,000	40%	\$24,700,000
Affordable rental housing for Low-Income Households	35%	\$13,300,000	30%	\$26,400,000	30%	\$18,525,000
For-sale and Moderate-Income Rental Housing Households	10%	\$3,800,000	5%	\$4,400,000	5%	\$3,087,500
Homelessness Prevention and Rental Assistance	10%	\$3,800,000	25%	\$22,000,000	25%	\$15,437,500

*The allocation for Program Administration for 2021-2022 is recommended to remain at \$2.0 million, consistent with the Adopted Budget, as additional resources will not be needed for the remainder of the current fiscal year.

Impact of Proposed Changes

- **Permanent Supportive Housing and Affordable Housing for Extremely Low-Income Allocation** – This category will be reduced from 45% to 40%. The City Council holds a policy stating 45% of all funding be dedicated to extremely low-income households in the new construction program. With this proposal, moving five percent of funding to the Homeless Prevention and Rental Assistance category will continue providing funding support to the most vulnerable populations in our community. The combined allocation of Extremely Low-Income and Homeless Prevention and Rental Assistance is 65% of all Measure E funding.
- **Affordable Rental Housing for Low-Income Allocation** – This category will be reduced by 5% from 35% to 30%. This change will result in, a combined total of \$61.6 million in the current year will be available for funding new construction of affordable low and extremely low-income housing. This level of funding will create stability to produce future permanent housing.
- **For Sale and Affordable Housing for Moderate Income Allocation** – The moderate-income allocation will be reduced by five percent providing \$4.4 million for funding moderate income programs. This is the same level that has been allocated in the past two years for the moderate-income category.
- **Homeless Prevention and Rental Assistance** – This category is proposed to increase from 10% to 25% of the allocation. The increased funding in this category will allow the City to provide resources to the most vulnerable populations in our community.

Definitions of Measure E Allocation Categories

Table 6: Revised Measure E Categories and Potential Uses

Proposed Spending Priority Category Descriptions		
Existing Spending Priority Language and Allocation %	Proposed Spending Priority Language and Allocation %	Proposed Uses of Funds
Permanent Supportive and Affordable rental housing for Extremely Low-Income Households (45%)	Creation of new affordable housing for Extremely Low-Income households (40%)	Predevelopment, acquisition, construction, operating costs and reserves, and permanent financing for new construction, acquisition/rehabilitation or preservation developments serving extremely low-income households for newly restricted housing and limited funding for neighborhood serving commercial space
Affordable rental housing for Low-Income Households (35%)	Creation of new affordable housing for Low-Income households (30%)	Predevelopment, acquisition, construction, operating costs and reserves, and permanent financing for new construction, acquisition/rehabilitation or preservation developments serving low-income households for newly restricted housing and limited funding for neighborhood serving commercial space
For-sale and Moderate-Income Rental Housing Households (10%)	Creation of new for-sale and rental affordable housing for Moderate-Income households (5%)	Both for-sale and rental housing programs serving moderate-income households including sites under land trusts and shared-equity programs
Homelessness Prevention and Rental Assistance (10%)	Homeless support programs including prevention and rental assistance, and shelter construction and operations (25%)	Programs and services targeting people who are homeless or at-risk of becoming homeless including but not limited to homeless prevention, gender-based violence programs, legal services, rental assistance, case management, outreach teams, encampment services, safe parking, homeless shelters and interim housing construction and operations

- **Creation of new affordable housing for Extremely Low-Income households (40%)** - The new title for this category will clarify the use of funds to include acquisition/rehabilitation of existing apartment buildings and preservation of naturally occurring affordable housing throughout the City as long as it results in a new income restricted housing, The proposed use of funds also clarifies these funds may be used for predevelopment and acquisition funding for the creation of new extremely low-income housing.
- **Creation of new affordable housing for Low-Income households (30%)** - The Low-Income category is similar to the Extremely Low-income category, providing funding to create new affordable housing or to acquire and rehabilitate housing that results in a new income restricted unit.
- **Creation of new for-sale and rental affordable housing for Moderate-Income households (5%)** - Funding in this category may be used for both for-sale and rental housing programs serving moderate-income households including sites under land trusts and shared-equity programs.
- **Homeless support programs including prevention and rental assistance, and shelter construction and operations (25%)** - The original language for this category limited the use of funds to homeless prevention and rental assistance. The definition of this category has been broadened to allow the use of funds for a range of homeless programs. This includes gender-based violence programs, outreach teams, encampment services, safe parking, homeless shelters and interim housing construction and operations. By both broadening the eligible uses under this category and by increasing the allocation, Measure E can be used to support the ongoing programs and shelters created in the past three years.

CONCLUSION

Production of affordable housing continues to be a priority for the City of San José and the region. As other local sources, such as Measure A, are beginning to be exhausted, the Housing Department has determined that it is necessary to maintain an alternative stable local funding source. At the same time, an ongoing need for operating support to interim housing solutions and rental assistance has emerged and needs to be addressed. Adjusting the spending categories to increase funding to the Homeless Prevention, Operations and Rental Assistance category will help provide the ongoing need for these programs. Finally, broadening the Homeless category uses allows for the funding of critical operating costs associated with our growing supply of interim housing. This hybrid solution of funding recommits the City of San José to our goals of providing permanent housing and providing much needed funding for the operation of interim housing.

As the real estate market in the San Francisco Bay Area has historically proven to be a strong market, Measure E will continue to prove an investment in affordable housing for years to come. This vital funding source can also function as a resource for addressing critical housing related needs in our community. The City would greatly benefit from the flexibility within Measure E to address the housing crisis.

EVALUATION AND FOLLOW-UP

In order to move forward with making a change to the spending allocation for Measure E funds, the following steps must take place.

Table 7: Timeline if City Council Approves Amendments to Measure E Spending Priorities

Minimum 60-day notice to public of the proposed amendments	February 4, 2022
Initial public hearing to consider changes to the Measure E spending priorities	February 15, 2022
Second public hearing and City Council action to approve the recommended policy changes	April 12, 2022
New percentage allocations included in the release of the 2022-2023 Proposed Operating Budget	May 1, 2022

CLIMATE SMART SAN JOSE

The recommendation in this memorandum does not affect Climate Smart San José energy, water, or mobility goals.

POLICY ALTERNATIVE

Alternative #1: Set Aside Ongoing Percentage Allocation Towards Operational Expenses
Amend Council Policy 1-18 to incorporate a new spending priority of ‘Operation of Interim Housing Sites’ at 10%.

Pros: Provides a consistent and ongoing funding commitment to the operational expense in connection to interim housing.

Cons: Inconsistent with the City Council’s approved spending priorities.

Reason for not recommending: Redirects money from the development of affordable rental housing for Low-Income and Moderate-Income households

Measure E Spending Priorities (Not to Include 5% Administration Fee)		
Spending Priority	Percent of Transfer Tax	Amount
Permanent Supportive and Affordable rental housing for Extremely Low-Income Households	45%	\$38,475,000
Affordable rental housing for Low-Income Households	30%	\$25,650,000
For-sale and Moderate-Income Rental Housing Households	5%	\$4,275,000
Operation of Interim Housing sites	10%	\$8,550,000
Homelessness Prevention and Rental Assistance	10%	\$8,550,000

PUBLIC OUTREACH

This memorandum will be posted on the City website ten days prior to the City Council’s consideration of this action.

COORDINATION

This memorandum was coordinated with the City Attorney’s Office.

COMMISSION RECOMMENDATION/INPUT

In June 2020, the City Council adopted Resolution 79608 designating the Housing and Community Development Commission to serve as the Community Oversight Committee for the general fund revenues generated by Measure E. The Oversight Committee’s role is limited to the review of the Measure E Transfer Tax spending plan and providing recommendations to City Council prior to their approval. The Oversight Committee is not required to review changes to the reallocation of spending priorities. Therefore, the Oversight Committee did not review this proposed change. The updated Measure E spending plan for 2021-2022 and the proposed plan for 2022-2023 will be brought to the Oversight Committee following the City Council’s action regarding the changes in the allocation policy.

COST SUMMARY/IMPLICATIONS

The recommended changes to the Measure E spending allocations provide additional resources for homelessness prevention and supportive programs, while still ensuring a significant commitment to building permanent affordable housing. In particular, the change allows for a dedicated funding stream to support the operating costs of interim housing and HomeKey sites.

As shown in Table 8 below, staff is estimating that Measure E revenues of approximately \$14.8 million in 2021-2022 and \$8.5 million ongoing will be available to support operating costs with Council’s approval of the recommended policy change. This funding could also support the development and construction of additional EIH sites; however, as discussed below, even with the infusion of Measure E resources, the City likely lacks sufficient funding to fully maintain all the existing sites on an ongoing basis.

Table 8: Draft Allocation of Measure Revenues – Homelessness Prevention and Support (25%)

Description	2021-2022	Ongoing
Estimated 25% Allocation of Measure E Revenue	\$22,000,000	\$15,437,500
Destination: Home – Homeless Prevention (including \$600,000 for rent and support for survivors of gender-based violence)	\$3,800,000	\$3,800,000
Destination: Home – Additional Support Due to Pending Expiration of Eviction Moratorium	\$1,400,000	
Rapid Rehousing Support to Santa Clara County	\$2,000,000	\$3,000,000
Remaining Available Funding	\$14,800,000	\$8,637,500

While the actual remaining available funding shown above will vary depending on the actual Measure E revenues received and City Council’s approval of the recommended allocations, the table uses these draft figures as part of a summary of estimated funding sources available to operate and maintain existing and planned emergency interim housing sites and Project HomeKey hotels along with their associated estimated costs through 2029-2030.

Table 9: Estimated Source and Use Statement – Existing and Planned Emergency Interim Housing and HomeKey Hotels

	2021-2022	2022-2023	2023-2024	2024-2025	2025-2026	2026-2027	2027-2028	2028-2029	2029-2030
Source									
Carryover Funding (Beginning Fund Balance)		27,973,000	59,326,000	60,005,000	47,557,000	32,497,000	20,351,000	6,873,000	(8,005,000)
Federal and State Grants ¹	30,444,000	50,117,000	24,642,000	10,990,000	6,000,000	6,000,000	6,000,000	6,000,000	6,000,000
Measure E Allocation	14,800,000	8,500,000	8,500,000	8,500,000	8,500,000	8,500,000	8,500,000	8,500,000	8,500,000
TOTAL SOURCE	45,244,000	86,590,000	92,468,000	79,495,000	62,057,000	46,997,000	34,851,000	21,373,000	6,495,000
Use									
Bridge Housing Communities									
Mabury ²	1,924,000	1,924,000	3,486,000	1,982,000	2,081,000	2,081,000	2,185,000	2,294,000	2,409,000
Felipe	1,924,000	1,924,000	1,982,000	1,982,000	2,081,000	2,081,000	2,185,000	2,294,000	2,409,000
Emergency Interim Housing Communities									
Monterey Bernal	3,621,000	3,621,000	3,730,000	3,730,000	3,916,000	3,916,000	4,112,000	4,318,000	4,533,000
Rue Ferrari	3,621,000	3,621,000	3,730,000	3,730,000	3,916,000	3,916,000	4,112,000	4,318,000	4,533,000
Evans Lane	2,881,000	2,881,000	2,967,000	2,967,000	3,116,000	3,272,000	3,435,000	3,607,000	3,787,000
Guadalupe (E Lot)	-	3,200,000	3,360,000	3,528,000	3,704,000	3,890,000	4,084,000	4,288,000	4,503,000
Monterey/Branham	-	2,732,000	5,515,000	5,712,000	5,999,000	6,298,000	6,613,000	6,944,000	7,291,000
Project HomeKey³									
Plaza Hotel	1,000,000	1,050,000	1,100,000	1,150,000	1,200,000	-	-	-	-
SureStay Motel	1,800,000	-	-	-	-	-	-	-	-
Arena Hotel	-	2,186,000	2,240,000	2,296,000	2,411,000	-	-	-	-
Pacific Motor Inn	-	3,125,000	3,323,000	3,779,000	-	-	-	-	-
Maint & Repairs	500,000	1,000,000	1,030,000	1,082,000	1,136,000	1,192,000	1,252,000	1,315,000	1,380,000
Remaining Balance									
(Ending Fund Balance)	27,973,000	59,326,000	60,005,000	47,557,000	32,497,000	20,351,000	6,873,000	(8,005,000)	(24,350,000)
TOTAL USE	45,244,000	86,590,000	92,468,000	79,495,000	62,057,000	46,997,000	34,851,000	21,373,000	6,495,000

¹The only external resources available on an ongoing basis are from the State of California SB 2 (Building Homes and Jobs Act), preliminarily estimated at \$6 million annually.

²Additional costs may be required in 2023-2024 to relocate the Mabury BHC from its current location at [1410 Mabury Rd] to a new location to accommodate the construction of the BART extension project.

³Project HomeKey sites are anticipated to be transitioned to permanent housing, with the exception of the Plaza Hotel, which is expected to be redeveloped by the property owner within the next five years.

Based on the current revenue assumption and cost estimates, the allocation of Measure E revenues to support interim housing and Project HomeKey operating costs extends the total available funding through 2027-2028. Beginning in 2027-2028, there would be a shortfall of \$8 million, followed by a \$24 million shortfall in 2028-2029. Constructing additional EIHCs would advance the shortfall timeline.

For example, if the City constructed two new EIHCs estimated at \$8 million – one in 2023-2024 and another in 2024-2025 – assuming annualized operating costs of \$3.9 million for each site, available funding would be exhausted by the end of 2025-2026. Though staff will continue to refine operating models to reduce ongoing costs, significant new sources of revenue would be required to construct and operate an additional six EIHCs without reducing funding for permanent affordable housing construction or reducing other critical City services.

HONORABLE MAYOR AND CITY COUNCIL

February 3, 2022

Subject: Proposed Changes to the Allocation and Category Names of Measure E Property Transfer Taxes

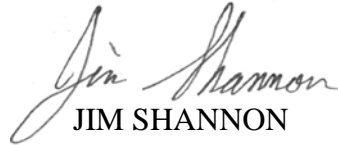
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CEQA

Not a Project, File No. PP17-010, City Organizational and Administrative Activities resulting in no changes to the physical environment.

/s/

JACKY MORALES-FERRAND
Director of Housing



JIM SHANNON
Budget Director

The principal author of this memorandum is Shelsy Bass, Senior Development Officer. For questions, please contact Rachel VanderVeen, Deputy Director, at (408) 535-8231.

ATTACHMENTS:

Attachment A: City Council Policy 1-18

Attachment B: Ongoing Housing Funding Sources

City of San José, California

COUNCIL POLICY

TITLE OPERATING BUDGET AND CAPITAL IMPROVEMENT PROGRAM POLICY	PAGE 1 of 14	POLICY NUMBER 1-18
EFFECTIVE DATE October 24, 2004	REVISED DATE June 16, 2020	
APPROVED BY COUNCIL ACTION Revised 3/20/2007; 10/21/2008, Item 3.4(c), Res. No. 74627; 10/20/2009, Item 3.4(c), Res. No. 75134; 12/15/2009, Item 2.15(a), Res. No. 75229; 6/17/2010, Item 3.13(f), Res. No. 75444; 06/11/13, Item 3.9(c), Res. No. 76664, 6/10/14, Item 3.6(e), Res. No. 77021; 12/16/14, Item 2.21, Resolution No. 77252; 06/09/15, Item 3.8(c), Resolution No. 77383; 6/11/2019, 3.7(c), Resolution No. 79139; 9/10/2019, 3.4(c), Resolution No. 79230; 6/16/2020, Item 3.5(c), Resolution No. 79581.		

PURPOSE

It is the purpose of this policy to set forth the guiding principles for the preparation and administration of the Operating Budget and Capital Improvement Program. This policy also includes the guiding principles on General Fund budget reserves and the ending fund balance in order to maintain our current level of budget performance, subject to the requirements of the San José City Charter and the San José Municipal Code. This Policy provides for general guiding principles and is not intended to supersede specific policies and procedures adopted by the City Council.

POLICY

The Operating and Capital Budgets and the Capital Improvement Program are prepared and administered in accordance with several sources of policy direction.

1. The City Charter requires that the budgets be balanced, include a complete financial plan for all City funds, and meet certain legal deadlines for submittal.
2. The City Council has established budget policies. These policies include guidelines, standards, and requirements for preparation and monitoring of both the Operating and Capital Budgets. The complete text of the adopted budget policies follows.
3. The budgets are developed in accordance with the Mayor's budget priorities and direction as approved by the City Council in March and June of each year.
4. Recommendations of special studies by Council-appointed task forces, boards, commissions, and committees may be considered upon the direction of the City Council.
5. Public input is considered throughout the process, with scheduled public hearings at key Council decision points.

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OPERATING BUDGET

1. General

The budget should be a performance, financing, and spending plan agreed to by the Mayor, City Council, City Manager, and other Council Appointees. It should contain information and data regarding expected revenues and resources (inputs), expected expenditures, and expected performance (outcomes). During the fiscal year, actual experience (revenues, expenditures, and performance) will be periodically measured against the plan.

The City will prepare and annually refine written goals and policies to guide the preparation of financing, spending, and performance plans for the City budget. Proposed budgets will comply with the adopted budget policies and Council priorities.

The City uses a performance-based budget. The core service is the lowest level in the organization for which budgets are prepared. Each core service budget will include financing and spending plans. Each core service will also propose an annual performance plan. The plan must identify ongoing performance targets and corresponding indicators, which measure performance. The plan should also include specific performance targets, which will have results during the budget year. All performance at the core service level must be consistent with the mission statements at the department level and the outcomes of the City Service Area at the City level, meeting the performance as well as budget goals and policies established by the Mayor and City Council.

Department and program managers will not exceed the Council-approved appropriations in any fund. Appropriations for departmental operations are approved by the City Council in two categories: Personal Services and Non-Personal/Equipment. These appropriations are shown in the departmental budgets. In addition, appropriations are approved for Capital Projects, Citywide projects, and other targeted functions with special and capital funds. The City Council may approve modifications to these appropriations throughout the year as warranted by revenue collections and activity demands.

2. Fiscal Integrity

The City will maintain the fiscal integrity of its operating, debt service, and capital improvement budgets, which provide services and maintain public facilities, streets, and utilities.

Ongoing operating program costs will not exceed the amount of ongoing revenue to finance those costs. Interfund loans will not be used as a funding mechanism to address ongoing gaps between revenues and costs. If a new program is added on an ongoing basis, an ongoing revenue source will be identified to fund the program costs. Any available carryover balance will only be used to offset one-time costs.

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3. *Contingency Funds or Accounts*

Several different contingency funds or accounts are established:

a) General Purpose Reserves

Within the General Fund, unrestricted reserves shall be set aside as a safety net for general city operations. Currently, the Contingency Reserve, Budget Stabilization Reserve, and Workers' Compensation/General Liability Catastrophic Reserve are available for general purposes. The combined funding goal for these reserves in the aggregate shall be 10 percent of General Fund Operating Budget expenditures. Within capital and special funds, reserves may be set aside as a safety net for city operations pertaining to the respective fund or to provide stability for customer rates when there are fluctuations to revenue and expenditures.

- 1) Contingency Reserve – Within the General Fund, a contingency reserve, which is a minimum of 3% of the General Fund operating budget, is established. The purpose of this reserve is to meet unexpected circumstances arising from financial and/or public emergencies that require immediate funding that cannot be met by any other means. Any use of the General Fund Contingency Reserve shall require two-thirds vote of approval by the City Council. The Contingency Reserve shall be budgeted at a minimum of 3 percent of the General Fund operating budget in the annual Adopted Budget. This allocation will include replenishment of any amounts expended or appropriated to another fund during the previous year.

Appropriate levels of contingency funds will be determined and maintained in the capital and special funds as part of the City Council's adoption of the annual Capital Budget or the Operating Budget, as applicable.

- 2) Budget Stabilization Reserve - Within the General Fund, a Budget Stabilization Reserve may be maintained at a level as determined by the City Council to be adequate. The purpose of this reserve is to provide budget stability when there are fluctuations that result in lower than projected revenues and/or higher than projected expenditures that cannot be re-balanced within existing budget resources in any given year. This reserve is intended to provide a buffer, or bridge funding, to protect against reducing service levels when these fluctuations occur. Any use of the General Fund Budget Stabilization reserve shall require majority vote by the City Council through the adoption of the Operating Budget or by appropriation action during the fiscal year. The City Council will set the reserve amount annually as part of the City Council's adoption of the Operating Budget. The replenishment or use of this reserve shall be incorporated into the annual Adopted Operating Budget as resources are available to replenish and/or increase this reserve, or as funds are needed to address a budget shortfall.

Appropriate levels of Budget Stabilization Reserve funds will be determined and maintained in the capital and special funds, as applicable.

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- 3) Workers' Compensation/General Liability Catastrophic Reserve –Within the General Fund, a Workers' Compensation/General Liability Catastrophic Reserve may be maintained at a level as determined by the City Council to be adequate. The purpose of this reserve is to provide funding for potential workers' compensation or general liability claims that exceed the budgeted amounts as the City, for the most part, is self-insured. Any use of the General Fund Workers' Compensation/General Liability Catastrophic Reserve shall require majority vote by the City Council through the adoption of the Operating Budget or by appropriation action during the fiscal year. The City Council will set the reserve amount annually as part of the City Council's adoption of the Operating Budget. The replenishment of this reserve shall be incorporated into the annual Adopted Operating Budget as resources are available to replenish and/or increase this reserve.

Appropriate levels of Workers' Compensation and/or General Liability Catastrophic Reserves will be determined and maintained in the capital and special funds, as applicable.

b) Cash Reserve Fund

An adequate revolving fund (Cash Reserve Fund 002), as mandated by the City Charter, shall be determined and maintained at an adequate level as determined by the City Council. The purpose of this reserve fund is for the payment of any authorized expenditures of the City for any fiscal year in anticipation of and before the collection of taxes and other revenues of the City for such fiscal year.

c) Emergency Reserve Fund

An adequate emergency reserve fund (Emergency Reserve Fund 406), as mandated by the City Charter, shall be determined and maintained at an adequate level as determined by the City Council. The purpose of this reserve fund is to meet any public emergency involving or threatening the lives, property, or welfare of the people of the City or property of the City.

4. Fund Balance

The appropriation of carryover fund balances must be approved judiciously. This should ensure that ongoing expenditures will be budgeted only to the extent that proven revenue streams exist.

In the annual budget, and in subsequent reports, there will be a presentation on fund balances and their anticipated uses.

- a) The first increment of any General Fund "Ending Fund Balance" identified in the City Manager's Annual Report shall be allocated to offset any projected deficit for the following fiscal year, after necessary appropriation adjustment actions to re-budget funds, correct errors, or reflect updated cost information have been accounted for in the fund balance reconciliation.

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- b) After setting aside funding to address the projected deficit for the following year, the remaining funds shall be allocated for the following uses:
 - 1) Budget Stabilization Reserve and/or Contingency Reserve.
 - 2) Unmet/deferred infrastructure and maintenance needs.
 - 3) Other one-time urgent funding needs.

- c) Annual surplus funds shall not be used for ongoing expenditures, unless those expenditures can be accommodated in Year Two and possibly Year Three of the five-year financial forecast. Any available carryover balance should only be used to offset one-time costs or to increase revenues.

5. Mid-Year Adjustments

Mid-year budget adjustments recommended by Council committees, task forces, or the full Council, should be referred to the Mid-Year Budget Review or the annual budget process for consideration along with other competing budgets needs and priorities. In general, ongoing budget changes should be dealt with during the annual budget process while one-time budget changes may be considered during either the Mid-Year Budget Review or during the annual budget process.

The authority to make expenditures in accordance with a City Council-approved spending plan is only valid as long as revenue for the budgets is equal to or greater than estimated expenditures.

All appropriation amendments and revenue estimate changes will be reported in the monthly financial report.

6. Overhead Cost Allocation

All overhead costs shall be allocated to the appropriate program within the limits of local, State and federal laws. The City utilizes a two step method (double step down method) where costs are first allocated among the central service support programs to arrive at the total cost of the central service programs. These total costs are then allocated down in priority order to the departments and funds that are benefiting from their services. The allocating support program costs are charged to the associated departmental funding source and corresponding revenue is received by the General Fund.

7. Budget System

The City will maintain a budget control system to adhere to the budget.

There will be delivery of a Proposed Budget, in accordance with the Adopted Budget schedule, that accurately depicts the financial condition and goals of the City. This budget should be in a form that enables decision makers to set the direction and policy of the City.

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The Proposed Budget will illustrate the General Fund, special funds, and capital funds so that the entire resources of the City may be viewed comprehensively for decision-making. Decision-making for capital improvements will be coordinated with the operating budget to make effective use of the City’s overall resources for operating and maintaining facilities.

The adoption of the annual appropriations ordinance will coincide with the adoption of the resolution setting forth the annual revenue estimates.

Budget detail shall contain line-item detail for the core service spending plan, a personnel summary report listing the types of positions for each department, and a corresponding core service performance plan. It shall also contain department and fund summaries for spending and personnel as well as a detailed financing plan for the core service.

8. Debt

The City Council adopted a Debt Management Policy (Council Policy 1-15) that establishes the following equally important objectives:

- a) Minimize debt service and issuance costs.
- b) Maintain access to cost-effective borrowing.
- c) Achieve the highest practical credit rating.
- d) Full and timely repayment of debt.
- e) Maintain full and complete financial disclosure and reporting.
- f) Ensure compliance with applicable State and Federal laws.

As described in Council Policy 1-15, prior to bringing forward a lease financing (financing the acquisition, construction, or improvement by the City of real property or equipment) to the City Council for approval, the Finance Department shall perform initial due diligence on the project to be financed. The due diligence will include identifying the revenue source for repayment, and performing a feasibility study to determine the volatility of the revenue and provide a sensitivity analysis on project revenue projections, including worst/best case scenarios and the impact on any repayment source identified as the backstop to the project revenues. In order to proceed with the preparation of the documents necessary for the lease financing, two-thirds majority approval by the City Council of the proposed plan of finance is required. When the lease financing is brought forward for City Council approval, the Finance Department will provide the City Council with an update to the due diligence report and any feasibility study. Approval of the lease financing will require two-thirds majority approval by the City Council. These provisions do not apply to a refunding of a lease financing transaction.

In order to reduce the principal on outstanding debt and minimize debt service costs, one-time savings generated from debt restructurings and refundings should be used to pay down the outstanding principal of other existing City debt, whenever possible, taking into consideration any fund restrictions.

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9. Self Insurance

The budget will provide for the adequate funding for the City's self-insurance programs.

10. Capital and Equipment Maintenance

The budget will provide for the adequate maintenance and orderly replacement of capital, plant, and equipment.

11. Retirement

The budget will provide for the adequate funding of all retirement systems.

12. Monthly Report

The Administration will prepare regular monthly reports comparing actual revenues and expenditures to budgeted amounts.

The budget will be produced so that it can be directly compared to the actual results of the fiscal year and presented in a timely monthly report.

All budget amendments, both for revenues and expenditures, will be noted in the monthly report.

13. Multi-Year Estimates

Each year the City will update expenditure and revenue projections for the next five years. Projections will include estimated maintenance and operating costs of future capital improvements that are included in the capital budget.

This budget data will be presented to elected officials in a form that will facilitate annual budget decisions, based on a multi-year strategic planning perspective.

14. Performance and Productivity

The City will integrate performance measurement and productivity indicators within the budget. Prior to implementation, performance objectives and service levels will be submitted for all new and existing programs established during the budget process. The selection of performance standards should be made on the basis of information reliability, relevance to current year budget change proposals, value to Mayor/Council decision making, and utility for program management

The City will promote the understanding that City employees are the most valuable resource of the City and that their understanding and involvement in the budget process is crucial to the City's continuing success on behalf of the community.

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The City will employ good management practices when planning for service delivery by including money in budget requests to pursue activities such as:

- a) office automation and computer applications that increase productivity;
- b) equipment modernization;
- c) work-flow simplification;
- d) risk management, exposure reduction, and employee safety;
- e) preventive maintenance;
- f) energy conservation;
- g) life-cycle costing in purchasing of equipment;
- h) lease-purchase options for high-cost equipment and purchases that reduce operating expenses;
- i) performance planning, reporting, and evaluation; and
- j) employee training.

The City will prepare and evaluate program performance plans that relate to financing and spending plans in the annual City budget.

15. *Public Involvement*

Public involvement shall be encouraged in the annual budget decision-making process through public hearings, public outreach and information, and informal meetings.

16. *“Distinguished Budget” Presentation*

The approved budget shall be submitted to the Government Finance Officers Association and the California State Municipal Finance Officers for consideration for professional awards and recognition for Distinguished Budget Presentation.

17. *Fees*

Fees shall be set to cover 100% of the cost of service delivery, unless such amount prevents residents from obtaining an essential service. Fees or service charges should not be established to generate money in excess of the costs of providing services.

Fees may be less than 100% if Council determines that other factors (e.g. market forces, competitive position, etc.) need to be recognized.

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18. Non-profit Organizations

Future funding decisions regarding non-profit organizations will be based on guidelines, policies and priorities determined by the Mayor/City Council and availability of funding based on spending priorities.

The City shall execute performance contracts with those agencies that receive City funding.

19. Master Plans

Master plans for specific service areas brought forward for Council consideration shall include options for capital and operating financing. Master plans shall be required to propose funding mechanisms for all recommendations.

20. Office of the Mayor and City Council District Office Budgets in Transition Years

For fiscal years in which the term of office of the Mayor or Councilmember(s) will expire and, as a result, the official may leave office due to election results or term limits (a “Transition Year”), two separate appropriations to maintain separate budget allocations for the outgoing and incoming elected officials shall be established. The total budget allocation will include: (a) office general budget; (b) constituent outreach budget; and (c) any carryover available from the prior fiscal year, from both office general and constituent outreach budgets. The first appropriation shall be for the July through December period for the Mayor and Councilmember(s) whose terms expire in December of that year, representing 50% of the total allocation. The second appropriation shall be for the January through June period for the newly elected Mayor and Councilmember(s), representing the remaining 50% of the total allocation. Outgoing Mayor and Councilmember(s) shall take into account the costs associated with any contracts entered into and all of their office’s personnel costs, including leave balance payouts for their staff so as not to reduce the amount budgeted for the incoming official. Any remaining budget allocation at the conclusion of the first appropriation shall be reappropriated to the second appropriation for that specific office as part of the annual Mid-Year Budget Review process. Should an election result in no change in the office holder, as part of the Mid-Year Budget Review process, the second appropriation shall be combined into the first for continuity of operations.

21. Interfund Loans

Interfund loans are loans from one City fund to another City fund for a designated purpose. To ensure that all interfund loans are appropriate, properly documented, and not established to the detriment of the fund issuing the loan, the following interfund loan eligibility and documentation requirements are established.

- a) Interfund Loan Eligibility Requirements—Interfund loans may not be used to solve ongoing structural budget problems. Interfund loans must have an identified repayment source and date; include an interest component that equals the investment earnings the fund would have received had the loan not occurred; and be immediately due and payable if needed by the fund that provided the loan.

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- b) Interfund Loan Documentation Requirements- Loan amount, term, and repayment source will be identified any time a loan is recommended. Loans will be coordinated with the City Attorney’s Office to ensure compliance with the Municipal Code and will be approved by the City Council. Payments made on outstanding loans shall be reflected in the Proposed and Adopted Budget and Annual Report, as applicable. A summary of all outstanding loans will also be included in the annual Proposed and Adopted Operating Budget and the Comprehensive Annual Financial Report (CAFR). The CAFR will also consistently include the loan term, rate of interest, and the interest amount due in its calculation of the total liability associated with the loan.

22. Real Property Transfer Tax Revenues

On March 3, 2020, the voters of San José passed Measure E to enact a new real property transfer tax (“Transfer Tax”) on the transfer of certain real property in the City. The provisions of this section shall apply to the budgeting of Transfer Tax revenues. The Transfer Tax is a general tax and the revenues derived from the tax are unrestricted, which means the City can use the Transfer Tax revenues for any governmental purpose. While these revenues are deposited in the General Fund and can be used for any governmental purpose, the City Council intends for the revenues to be allocated towards addressing the homelessness crisis and the City’s most urgent issues including, but not limited to, homeless prevention and developing new affordable housing. The approach for estimating and budgeting Transfer Tax revenues is described below.

- a) Estimating Revenue from the Transfer Tax – Due to the volatile nature of a real property transfer tax such as the Transfer Tax, the City will conservatively estimate revenue from the Transfer Tax as part of the Proposed Budget process. During the course of the fiscal year, revisions to the Transfer Tax revenue estimate may be recommended to the City Council to align with the pace of actual collections.
- b) Spending Allocations of Transfer Tax – The spending priorities for the Transfer Tax are listed below.
 - 1) Up to 5% of the revenues may be allocated for the administration of funding related to increased workload resulting from more robust homeless prevention efforts and the creation of more affordable housing, including, but not limited to, financial, legal, or administrative and policy programmatic support.
 - 2) The remaining revenue is allocated as follows:
 - i. 10% for homelessness prevention and rental assistance;
 - ii. 45% for permanent supportive and affordable rental housing for extremely low-income (ELI) households earning less than 30% of area median income (AMI) as defined by the U.S. Department of Housing and Urban Development;
 - iii. 35% for affordable rental housing for 30% - 80% AMI households; and
 - iv. 10% for below market-rate for-sale housing and moderate-income rental housing up to and including 120% AMI, including but not limited to, rent-restricted

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Accessory Dwelling Units (ADU) forgivable loans, down payment assistance, and first-time homeownership opportunities for households up to 120% AMI.

- c) Modifications to Spending Allocation – Any revisions to the revenue estimate, as well as a reconciliation of year-end actuals to budgeted estimates, will be proportionally applied to the spending categories described above. Modifying the percentage allocations during the Proposed Budget process or during the year requires:
 - 1) A 60-day notice in advance of the effective date of the proposed allocation change posted on the City’s website and at least two public hearings prior to City Council action on the proposed allocation change, with a notice of each public hearing posted on the City’s website at least 10 days in advance of the public hearing; and
 - 2) A two-thirds vote of the City Council.

CAPITAL IMPROVEMENT PROGRAM

1. *Fiscal Policies*

- a) Capital project proposals should include complete, reliable, and attainable cost estimates. Based upon a thorough analysis of the project, project cost estimates for the Five-Year Capital Improvement Plan will vary in reliability depending upon whether they are to be undertaken in the first or fifth year of the Plan. Project estimates for the Five-Year Capital Improvement Plan should include the basis on which the project costs were prepared (conceptual design, master plan, etc.), and the relative reliability of those estimated costs.
- b) Capital project proposals should include a comprehensive resource plan. This plan should include the amount and type of resources required, and the funding and financing strategies to be employed. The specific fund and timing should be outlined. The plan should indicate resources needed to complete any given phase of a project in addition to the total project. The City Manager’s Office is responsible and accountable for providing Council with an accurate, comprehensive resource plan.
- c) Changes in project estimates for the comprehensive resource plan shall be fully reported to the City Council for review and approval.
- d) Project proposals should indicate the project impact on the operating budget. Each project that is proposed in any year of the 5-year Capital Improvement Program shall have an estimate of the costs for furniture, fixtures, equipment, and technology and the annual operations and maintenance costs in the appropriate year of the Operating Budget or in the Five Year Forecast and Revenue Projections.
- e) During the Annual Capital Budget process for multi-year budgeted projects, the City Manager will provide the Council with more information regarding the project including the original budget, budget addendums, and the projected schedule in spreadsheet format.

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- f) At the time of award of the construction contract, each project shall include reasonable provision for contingencies.
- g) At the time of award of the construction contract, each project shall include reasonable provisions for furniture, fixtures, equipment, and technology that are separately identified in a line item or items in the construction budget and those costs shall be noted in the staff report to the Council.
- h) At the time of award of the construction contract, each project's estimated annual operating and maintenance costs shall be identified in the staff report to the Council and shall be included in the Operating Budget or in the Five Year Forecast and Revenue Projections for projects expected to be completed after the end of the budget year.
- i) The contingency amounts to be used for various types of projects are set forth in Section 27.04.050 of the San Jose Municipal Code.
- j) Project contingencies may, unless otherwise determined by the City Council, be used only as set forth in Chapter 27.30 of Title 27 of the San Jose Municipal Code.
- k) For budgeting purposes, project contingencies are a reasonable estimating tool. At the time of contract award, the project's budgeted appropriation, including contingency, will be replaced with a new appropriation equal to the approved project contract contingency developed in the manner described above.
- l) The City Administration shall seek ways of ensuring that administrative costs of carrying out the Capital Improvement Program are kept at appropriate levels.
- m) The Annual Capital Budget shall include only those projects that can reasonably be accomplished in the indicated timeframe. Multi-year budgeting of projects shall be used to ensure a reasonable timeframe for projecting costs. The detail sheet for each budgeted capital project should include a projected schedule.
- n) The status of all capital projects, and the entire Capital Budget, will be monitored by the Mayor/Council as part of the Mid-Year Budget Review. Large projects of crucial importance may be monitored on a more frequent basis as determined by the City Council.
- o) Capital projects that are not encumbered or completed during the fiscal year will be re-budgeted to the next fiscal year except as reported to and subsequently approved by the City Council. All re-budgeted capital projects should be so noted in the Proposed Capital Budget.

2. Capital Improvement Plan Policies

Public participation in the Capital Improvement Program is a priority concern for the City. Among the activities conducted to address this need are the following:

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- a) The Capital Improvement Plan shall be provided to the City Council in a timely manner as required by the City Charter to allow for Council members to review the proposal with constituents before it is considered for adoption.
- b) Council budget review study sessions on the Capital Improvement Plan shall be open to the public and advertised sufficiently in advance of the meetings to allow for public attendance.
- c) Prior to the adoption of the Capital Improvement Plan, the City Council shall hold noticed public hearings to provide an opportunity for residents to express their opinions on the proposed plan.
- d) The City Planning Commission shall review the proposed Capital Improvement Plan and provide their comments on its contents before the City Council considers the plan for final adoption.
- e) All projects included in the Capital Improvement Program shall be consistent with the City's General Plan and the City's Energy and Water Policies. The goals and policies within the General Plan relating to community development, housing, services and facilities, transportation, solid waste, aesthetic, cultural and recreational resources, natural resources, and hazards should be followed in the development of the Capital Improvement Plan. The General Plan service-level goals will be clearly stated in the Capital Improvement Program.
- f) Capital projects shall be financed to the greatest extent possible through user fees and benefit districts where the construction of the project results in direct benefit to users.
- g) The Council will annually review and establish criteria for measuring proposed capital improvement projects. Among the factors that will be considered for priority ranking are the following:
 - Projects that have a positive impact on the operating budget, such as reduced expenditures or increased revenues.
 - Projects that are programmed in the Five-Year Operating Budget Forecast.
 - Projects that can be completed or significantly advanced during the Five-Year Capital Improvement Plan.
 - Projects that can realistically be accomplished during the year they are scheduled.
 - Projects that implement prior Council-adopted reports and strategies.
- h) Projects that involve inter-governmental cooperation in planning and funding should be established by an agreement that sets forth the basic responsibilities of the parties involved.

3. Debt

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The City Council has adopted a Debt Management Policy (Council Policy 1-15) that establishes the following equally important objectives:

- a) Minimize debt service and issuance costs.
- b) Maintain access to cost-effective borrowing.
- c) Achieve the highest practical credit rating.
- d) Full and timely repayment of debt.
- e) Maintain full and complete financial disclosure and reporting.
- f) Ensure compliance with applicable state and federal laws.

As described in Council Policy 1-15, prior to bringing forward a lease financing (financing the acquisition, construction, or improvement by the City of real property or equipment) to the City Council for approval, the Finance Department shall perform initial due diligence on the project to be financed. The due diligence will include identifying the revenue source for repayment, and performing a feasibility study to determine the volatility of the revenue and provide a sensitivity analysis on project revenue projections, including worst/best case scenarios and the impact on any repayment source identified as the backstop to the project revenues. In order to proceed with the preparation of the documents necessary for the lease financing, two-thirds majority approval by the City Council of the proposed plan of finance is required. When the lease financing is brought forward for City Council approval, the Finance Department will provide the City Council with an update to the due diligence report and any feasibility study. Approval of the lease financing will require two-thirds majority approval by the City Council. These provisions do not apply to a refunding of a lease financing transaction.

In order to reduce the principal on outstanding debt and minimize debt service costs, one-time savings generated from debt restructurings and refundings should be used to pay down the outstanding principal of other existing City debt, whenever possible, taking into consideration any fund restrictions.

Attachment B: Ongoing Housing Funding Sources

Ongoing Housing Development Funding Source	Ability to use for operation and construction of Interm Housing	Allowable Uses
Community Development Block Grant Program (CDBG)	X	Public Services (up to 15%), Infrastructure Investments, Administrative Costs, Economic Development Programs, Funding Community Based Non-Profit Organizations, and Shelter Construction
HOME		Tenant Based Rental Assistance, Construction & Rehabilitation of Affordable Housing, Fair Housing Services, and Administrative Costs
Measure E Real Estate Transfer Tax		Construction of Affordable Housing, Homeless Prevention and Rental Assistance
Low and Moderate Income Housing Asset Fund		Construction & Rehabilitation of Affordable Housing at 60% AMI or lower
Affordable Housing Impact Fee (AHIF)		Construction & Rehabilitation of Affordable Housing at 120% AMI or lower
Inclusionary Ordinance In-Lieu Fees		Construction & Rehabilitation of Affordable Housing at 120% AMI or lower
Inclusionary Policy In-Lieu Payments		Construction & Rehabilitation of Affordable Housing at 120% AMI or lower